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5 **UNITED STATES DISTRICT COURT**
6 **DISTRICT OF NEVADA**
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8 TRACEY L. BROWN,

9 Plaintiff,

10 v.

11 ROBERT MARTINEZ, et al.,

12 Defendants.
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2:12-CV-173JCM (GWF)

14 **ORDER**

15 Presently before the court is the report and recommendation of Magistrate Judge George W.
16 Foley regarding the dismissal of plaintiff's claim against the Las Vegas Metropolitan Police
17 Department and plaintiff's Fourteenth Amendment due process claim. Doc. #18. While plaintiff
18 has not objected to the magistrate's recommendation, he has sent a letter to the court asking when
19 he may file an amended complaint naming the Las Vegas police officers.¹ Doc. #21.

20 As correctly identified by the magistrate judge, "the language of § 1983 . . . compels the
21 conclusion that Congress did not intend municipalities to be held liable unless action pursuant to
22 official municipal policy of some nature caused a constitutional tort." *Monell v. Department of*
23 *Social Services*, 436 U.S. 658, 691 (1978). Plaintiff has failed to allege any facts regarding the
24 police department's role in the alleged constitutional deprivations. Accordingly, plaintiff has failed
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26 ¹ The court finds that the magistrate judge gave plaintiff sufficient guidance as to the
27 possibility of amending the instant complaint. Nonetheless, the court once again directs plaintiff to
28 Federal Rule of Civil Procedure 15(a), which explains the different procedures and time lines for
amending pleadings.

1 to plead sufficient facts to support a cause of action against the police department. Metro is therefore
2 dismissed as a defendant.

3 Furthermore, plaintiff has failed to state a Fourteenth Amendment procedural due process
4 claim, because he has not alleged that defendant Martinez deprived him of any liberty interest or that
5 he even had a liberty interest to begin with. *See Crowe v. County of San Diego*, 242 F.
6 Supp. 2d 740, 748 (9th Cir. 2003).

7 Accordingly,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the report and
9 recommendation of Magistrate Judge George W. Foley (doc. #18) be, and the same hereby is,
10 ADOPTED in its entirety.

11 IT IS THEREFORE ORDERED that plaintiff's claims against the Las Vegas Metropolitan
12 Police Department and the Fourteenth Amendment procedural due process claim against defendant
13 Martinez be, and the same hereby are, DISMISSED without prejudice.

14 DATED June 27, 2012.

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17 UNITED STATES DISTRICT JUDGE
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